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10 INTEGRITY APARTMENTS, LLC

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 CANDACE BARFIELD, an
14 individual, ADAM BUTLER, an
15 individual, O.B., a minor by and
16 through her guardian ad litem, ALAN
17 BARFIELD,

18 Plaintiff,

19 vs.

20 INTEGRITY APARTMENTS, LLC;
21 and DOES 1 thru 10, inclusive,

22 Defendant.

Case No.: 2:15-cv-08888-GHK (AFMx)

**~~[PROPOSED]~~ STIPULATED
PROTECTIVE ORDER**

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1 1. A. PURPOSES AND LIMITATIONS

2 Discovery in this action is likely to involve production of confidential,
3 proprietary, or private information for which special protection from public
4 disclosure and from use for any purpose other than prosecuting this litigation may
5 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
6 enter the following Stipulated Protective Order. The parties acknowledge that this
7 Order does not confer blanket protections on all disclosures or responses to
8 discovery and that the protection it affords from public disclosure and use extends
9 only to the limited information or items that are entitled to confidential treatment
10 under the applicable legal principles. The parties further acknowledge, as set forth
11 in Section 12.3, below, that this Stipulated Protective Order does not entitle them to
12 file confidential information under seal; Civil Local Rule 79-5 sets forth the
13 procedures that must be followed and the standards that will be applied when a
14 party seeks permission from the court to file material under seal.

15 B. GOOD CAUSE STATEMENT

16 This action will likely involve the disclosure of private information regarding
17 past, current and future residents of an apartment building which is the subject of
18 this action. Such information may include social security numbers, banking
19 information, telephone numbers, current and past addresses, names of tenants and
20 their children and other personal non-public information. The information listed
21 above is generally unavailable to the public and may furthermore be protected from
22 disclosure under state and or federal statutes, court rules, case decisions, or
23 common law. Accordingly, to expedite the flow of information, to facilitate the
24 prompt resolution of disputes over confidentiality of discovery materials, to
25 adequately protect information the parties are entitled to keep confidential, to
26 ensure that the parties are permitted reasonable necessary uses of such material in
27 preparation for an in the conduct of trial, to address their handling at the end of the
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litigation, and serve the ends of justice, a protective order for such information is justified in this matter. It is the intent of the parties that information will not be designed as confidential for tactical reasons and that nothing be so designated without a good faith belief that it has been maintained in a confidential, non-public manner, and there is good cause why it should not be part of the public record in this case.

2. DEFINITIONS

2.1 Action: this pending federal law suit.

2.2 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.3 "CONFIDENTIAL" Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their support staff).

2.5 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as "CONFIDENTIAL."

2.6 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

2.7 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this Action.

2.8 House Counsel: attorneys who are employees of a party to this Action. House Counsel does not include Outside Counsel of Record or any other outside counsel.

2.9 Non-Party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

2.10 Outside Counsel of Record: attorneys who are not employees of a party to this Action but are retained to represent or advise a party to this Action and have appeared in this Action on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party, and includes support staff.

2.11 Party: any party to this Action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

2.12 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this Action.

2.13 Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

2.14 Protected Material: any Disclosure or Discovery Material that is designated as "CONFIDENTIAL."

2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

3. SCOPE

The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or

1 compilations of Protected Material; and (3) any testimony, conversations, or
2 presentations by Parties or their Counsel that might reveal Protected Material.

3 Any use of Protected Material at trial shall be governed by the orders of the
4 trial judge. This Order does not govern the use of Protected Material at trial.

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6 **4. DURATION**

7 Even after final disposition of this litigation, the confidentiality obligations
8 imposed by this Order shall remain in effect until a Designating Party agrees
9 otherwise in writing or a court order otherwise directs. Final disposition shall be
10 deemed to be the later of (1) dismissal of all claims and defenses in this Action,
11 with or without prejudice; and (2) final judgment herein after the completion and
12 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
13 including the time limits for filing any motions or applications for extension of
14 time pursuant to applicable law.

15
16 **5. DESIGNATING PROTECTED MATERIAL**

17 **5.1 Exercise of Restraint and Care in Designating Material for Protection.**

18 Each Party or Non-Party that designates information or items for protection under
19 this Order must take care to limit any such designation to specific material that
20 qualifies under the appropriate standards. The Designating Party must designate
21 for protection only those parts of material, documents, items, or oral or written
22 communications that qualify so that other portions of the material, documents,
23 items, or communications for which protection is not warranted are not swept
24 unjustifiably within the ambit of this Order.

25 Mass, indiscriminate, or routinized designations are prohibited.
26 Designations that are shown to be clearly unjustified or that have been made for
27 an improper purpose (e.g., to unnecessarily encumber the case development
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1 process or to impose unnecessary expenses and burdens on other parties) may
 2 expose the Designating Party to sanctions.

3 If it comes to a Designating Party's attention that information or items that
 4 it designated for protection do not qualify for protection, that Designating Party
 5 must promptly notify all other Parties that it is withdrawing the inapplicable
 6 designation.

7 5.2 Manner and Timing of Designations. Except as otherwise provided in
 8 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
 9 stipulated or ordered, Disclosure or Discovery Material that qualifies for
 10 protection under this Order must be clearly so designated before the material is
 11 disclosed or produced.

12 Designation in conformity with this Order requires:

13 (a) for information in documentary form (e.g., paper or electronic
 14 documents, but excluding transcripts of depositions or other pretrial or trial
 15 proceedings), that the Producing Party affix at a minimum, the legend
 16 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that
 17 contains protected material. If only a portion or portions of the material on a page
 18 qualifies for protection, the Producing Party also must clearly identify the
 19 protected portion(s) (e.g., by making appropriate markings in the margins).

20 A Party or Non-Party that makes original documents available for
 21 inspection need not designate them for protection until after the inspecting Party
 22 has indicated which documents it would like copied and produced. During the
 23 inspection and before the designation, all of the material made available for
 24 inspection shall be deemed "CONFIDENTIAL." After the inspecting Party has
 25 identified the documents it wants copied and produced, the Producing Party must
 26 determine which documents, or portions thereof, qualify for protection under this
 27 Order. Then, before producing the specified documents, the Producing Party must
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1 affix the “CONFIDENTIAL legend” to each page that contains Protected
 2 Material. If only a portion or portions of the material on a page qualifies for
 3 protection, the Producing Party also must clearly identify the protected portion(s)
 4 (e.g., by making appropriate markings in the margins).

5 (b) for testimony given in depositions that the Designating Party identify
 6 the Disclosure or Discovery Material on the record, before the close of the
 7 deposition all protected testimony.

8 (c) for information produced in some form other than documentary and for
 9 any other tangible items, that the Producing Party affix in a prominent place on the
 10 exterior of the container or containers in which the information is stored the legend
 11 “CONFIDENTIAL.” If only a portion or portions of the information warrants
 12 protection, the Producing Party, to the extent practicable, shall identify the
 13 protected portion(s).

14 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
 15 failure to designate qualified information or items does not, standing alone, waive
 16 the Designating Party’s right to secure protection under this Order for such
 17 material. Upon timely correction of a designation, the Receiving Party must make
 18 reasonable efforts to assure that the material is treated in accordance with the
 19 provisions of this Order.

20 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

21 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
 22 designation of confidentiality at any time that is consistent with the Court’s
 23 Scheduling Order.

24 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
 25 resolution process under Local Rule 37.1 et seq.

26 6.3 The burden of persuasion in any such challenge proceeding shall be on
 27 the Designating Party. Frivolous challenges, and those made for an improper
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1 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
 2 parties) may expose the Challenging Party to sanctions. Unless the Designating
 3 Party has waived or withdrawn the confidentiality designation, all parties shall
 4 continue to afford the material in question the level of protection to which it is
 5 entitled under the Producing Party's designation until the Court rules on the
 6 challenge.

7. ACCESS TO AND USE OF PROTECTED MATERIAL

8 7.1 Basic Principles. A Receiving Party may use Protected Material that is
 9 disclosed or produced by another Party or by a Non-Party in connection with this
 10 Action only for prosecuting, defending, or attempting to settle this Action. Such
 11 Protected Material may be disclosed only to the categories of persons and under the
 12 conditions described in this Order. When the Action has been terminated, a
 13 Receiving Party must comply with the provisions of section 13 below (FINAL
 14 DISPOSITION).

15 Protected Material must be stored and maintained by a Receiving Party at a
 16 location and in a secure manner that ensures that access is limited to the persons
 17 authorized under this Order.

18 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
 19 otherwise ordered by the court or permitted in writing by the Designating Party, a
 20 Receiving Party may disclose any information or item designated
 21 "CONFIDENTIAL" only to:

22 (a) the Receiving Party's Outside Counsel of Record in this Action, as well
 23 as employees of said Outside Counsel of Record to whom it is reasonably necessary
 24 to disclose the information for this Action;

25 (b) the officers, directors, and employees (including House Counsel) of the
 26 Receiving Party to whom disclosure is reasonably necessary for this Action;

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(d) the court and its personnel;

(e) court reporters and their staff;

(f) professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

(h) during their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (1) the deposing party requests that the witness sign the form attached as Exhibit A hereto; and (2) they will not be permitted to keep any confidential information unless they sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order; and

(i) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this Action as “CONFIDENTIAL,” that Party must:

1 (a) promptly notify in writing the Designating Party. Such notification shall
2 include a copy of the subpoena or court order;

3 (b) promptly notify in writing the party who caused the subpoena or order to
4 issue in the other litigation that some or all of the material covered by the subpoena
5 or order is subject to this Protective Order. Such notification shall include a copy of
6 this Stipulated Protective Order; and

7 (c) cooperate with respect to all reasonable procedures sought to be pursued
8 by the Designating Party whose Protected Material may be affected.

9 If the Designating Party timely seeks a protective order, the Party served with the
10 subpoena or court order shall not produce any information designated in this action
11 as “CONFIDENTIAL” before a determination by the court from which the
12 subpoena or order issued, unless the Party has obtained the Designating Party’s
13 permission. The Designating Party shall bear the burden and expense of seeking
14 protection in that court of its confidential material and nothing in these provisions
15 should be construed as authorizing or encouraging a Receiving Party in this Action
16 to disobey a lawful directive from another court.

17 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED
18 IN THIS LITIGATION

19 (a) The terms of this Order are applicable to information produced by a Non-
20 Party in this Action and designated as “CONFIDENTIAL.” Such information
21 produced by Non-Parties in connection with this litigation is protected by the
22 remedies and relief provided by this Order. Nothing in these provisions should be
23 construed as prohibiting a Non-Party from seeking additional protections.

24 (b) In the event that a Party is required, by a valid discovery request, to
25 produce a Non-Party’s confidential information in its possession, and the Party is
26 subject to an agreement with the Non-Party not to produce the Non-Party’s
27 confidential information, then the Party shall:

1 (1) promptly notify in writing the Requesting Party and the Non-Party that
 2 some or all of the information requested is subject to a confidentiality agreement
 3 with a Non-Party;

4 (2) promptly provide the Non-Party with a copy of the Stipulated Protective
 5 Order in this Action, the relevant discovery request(s), and a reasonably specific
 6 description of the information requested; and

7 (3) make the information requested available for inspection by the Non-
 8 Party, if requested.

9 (c) If the Non-Party fails to seek a protective order from this court within 14
 10 days of receiving the notice and accompanying information, the Receiving Party
 11 may produce the Non-Party's confidential information responsive to the discovery
 12 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
 13 not produce any information in its possession or control that is subject to the
 14 confidentiality agreement with the Non-Party before a determination by the court.
 15 Absent a court order to the contrary, the Non-Party shall bear the burden and
 16 expense of seeking protection in this court of its Protected Material.

17 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

18 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
 19 Protected Material to any person or in any circumstance not authorized under this
 20 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
 21 writing the Designating Party of the unauthorized disclosures, (b) use its best
 22 efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the
 23 person or persons to whom unauthorized disclosures were made of all the terms of
 24 this Order, and (d) request such person or persons to execute the "Acknowledgment
 25 and Agreement to Be Bound" that is attached hereto as Exhibit A.

26 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE 27 PROTECTED MATERIAL

1 When a Producing Party gives notice to Receiving Parties that certain
 2 inadvertently produced material is subject to a claim of privilege or other
 3 protection, the obligations of the Receiving Parties are those set forth in Federal
 4 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
 5 whatever procedure may be established in an e-discovery order that provides for
 6 production without prior privilege review. Pursuant to Federal Rule of Evidence
 7 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure
 8 of a communication or information covered by the attorney-client privilege or work
 9 product protection, the parties may incorporate their agreement in the stipulated
 10 protective order submitted to the court.

11 12. MISCELLANEOUS

12 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
 13 person to seek its modification by the Court in the future.

14 12.2 Right to Assert Other Objections. By stipulating to the entry of this
 15 Protective Order no Party waives any right it otherwise would have to object to
 16 disclosing or producing any information or item on any ground not addressed in
 17 this Stipulated Protective Order. Similarly, no Party waives any right to object on
 18 any ground to use in evidence of any of the material covered by this Protective
 19 Order.

20 12.3 Filing Protected Material. A Party that seeks to file under seal any
 21 Protected Material must comply with Civil Local Rule 79-5. Protected Material
 22 may only be filed under seal pursuant to a court order authorizing the sealing of
 23 the specific Protected Material at issue. If a Party's request to file Protected
 24 Material under seal is denied by the court, then the Receiving Party may file the
 25 information in the public record unless otherwise instructed by the court.

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1 13. FINAL DISPOSITION

2 After the final disposition of this Action, as defined in paragraph 4, within
 3 60 days of a written request by the Designating Party, each Receiving Party must
 4 return all Protected Material to the Producing Party or destroy such material. As
 5 used in this subdivision, "all Protected Material" includes all copies, abstracts,
 6 compilations, summaries, and any other format reproducing or capturing any of
 7 the Protected Material. Whether the Protected Material is returned or destroyed,
 8 the Receiving Party must submit a written certification to the Producing Party
 9 (and, if not the same person or entity, to the Designating Party) by the 60 day
 10 deadline that (1) identifies (by category, where appropriate) all the Protected
 11 Material that was returned or destroyed and (2) affirms that the Receiving Party
 12 has not retained any copies, abstracts, compilations, summaries or any other
 13 format reproducing or capturing any of the Protected Material. Notwithstanding
 14 this provision, Counsel are entitled to retain an archival copy of all pleadings,
 15 motion papers, trial, deposition, and hearing transcripts, legal memoranda,
 16 correspondence, deposition and trial exhibits, expert reports, attorney work
 17 product, and consultant and expert work product, even if such materials contain
 18 Protected Material. Any such archival copies that contain or constitute Protected
 19 Material remain subject to this Protective Order as set forth in Section 4
 20 (DURATION).

21 14. Any violation of this Order may be punished by any and all appropriate
 22 measures including, without limitation, contempt proceedings and/or monetary
 23 sanctions.

24 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.
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 26
 27
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1 DATED: January 6, 2016

LAW OFFICES OF CRAIG P. FAGAN

2
3 By: /s/Craig P. Fagan

4 Craig P. Fagan
5 Attorneys for Plaintiff

6
7
8 DATED: January 6, 2016

KIMBALL, TIREY & ST. JOHN LLP

9
10 By: /s/Eli A. Gordon

11 Eli A. Gordon
12 Attorneys for Defendant

13
14 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

15
16 DATED: 1/6/2016

17 

18
19 _____
20 Alexander F. MacKinnon
21 United States Magistrate Judge

EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
 _____ [print or type full address], declare under penalty of perjury
 that I have read in its entirety and understand the Stipulated Protective Order that
 was issued by the United States District Court for the Central District of California
 on [date] in the case of *Candace Barfield, et al v. Integrity Apartments, LLC, et al.*;
 2:15-cv-08888-GHK (AFMx). I agree to comply with and to be bound by all the
 terms of this Stipulated Protective Order and I understand and acknowledge that
 failure to so comply could expose me to sanctions and punishment in the nature of
 contempt. I solemnly promise that I will not disclose in any manner any
 information or item that is subject to this Stipulated Protective Order to any person
 or entity except in strict compliance with the provisions of this Order. I further
 agree to submit to the jurisdiction of the United States District Court for the Central
 District of California for the purpose of enforcing the terms of this Stipulated
 Protective Order, even if such enforcement proceedings occur after termination of
 this action. I hereby appoint _____ [print or type full
 name] of _____ [print or type full
 address and telephone number] as my California agent for service of process in
 connection with this action or any proceedings related to enforcement of this
 Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

PROOF OF SERVICE

I, Tatiana Harris, declare:

I am, and was at the time of service of the papers herein referred to, over the age of eighteen (18) years, and not a party to the within action. I am employed in the County of Los Angeles, California, in which county the within-mentioned mailing occurred. My business address is 555 South Flower Street, Suite 3400, Los Angeles, CA 90071.

On January 6, 2016, I served the following document(s):

[PROPOSED] STIPULATED PROTECTIVE ORDER

on the following parties:

Craig P. Fagan, Esq.
LAW OFFICES OF CRAIG P.
FAGAN
6320 Raydel Court
San Diego, CA 92120
Email: cpfagan@faganlegal.com

(BY MAIL) I placed a true and correct copy of the document(s) in a sealed envelope addressed as follows and I caused the envelope to be deposited in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

XX (BY ELECTRONIC SERVICE) I caused such document(s) to be electronically served through NEF to the above electronic notification addresses. The file transmission was reported as complete and a copy of the "NEF Filing Receipt" page will be maintained with the original document(s) in our office.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 6, 2016, at Los Angeles, California.

By: /s/ Tatiana Harris
Tatiana Harris